

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING ON
17.53.105 pertaining to incorporation by)	PROPOSED AMENDMENT
reference of current federal regulations into)	
the hazardous waste program)	(HAZARDOUS WASTE)

TO: All Concerned Persons

1. On November 8, 2006, at 10:30 a.m., a public hearing will be held in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., October 30, 2006, to advise us of the nature of the accommodation that you need. Please contact Robert A. Martin, Waste and Underground Tank Management Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-4194; fax (406) 444-1374; or e-mail rmartin@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.53.105 INCORPORATION BY REFERENCE (1) and (2) remain the same.

(3) References in this chapter that incorporate 40 CFR 60, 61, 63, 124, 260 through 266, 268, 270, 273, or 279 refer to the version of that publication revised as of July 1, ~~2004~~ 2006. References in this chapter to 40 CFR 124, 260 through 266, 268, 270, 273, or 279 that incorporate publications refer to the version of the publication as specified at 40 CFR 260.11. Provisions within 40 CFR 60, 61, and 63 that are referenced in 40 CFR 124, 260 through 266, 268, 270, 273, or 279 are also incorporated by reference.

(a) For the purposes of this chapter, the department adopts and incorporates by reference the final rules published in the Federal Register at 71 FR 40254 on July 14, 2006, "Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations," to be codified at 40 CFR parts 260, 261, 262, 264, 265, 266, 267, 268, 270, 271, 273, and 279.

(b) For the purposes of this chapter, the department adopts and incorporates by reference the final rules published at 71 FR 42927 on July 28, 2006, "Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes," to be codified at 40 CFR parts 260, 261, and 271. The final rules published at 71 FR 42927, as incorporated by reference in this rule, become effective on January 29, 2007.

(4) through (7) remain the same.

AUTH: 75-10-405, MCA
IMP: 75-10-405, MCA

REASON: Annually, the department updates ARM 17.53.105 which incorporates by reference the Code of Federal Regulations (CFR). The incorporation by reference process is accomplished by amending the CFR publication date specified in ARM 17.53.105(3). The amendment to ARM 17.53.105(3) would allow the department to follow the most recent edition of federal regulations, and thus maintain comity with EPA, to preserve program authorization.

In a July 14, 2006, Federal Register notice (71 FR 40254), the Environmental Protection Agency (EPA) corrected errors in the CFR for the hazardous waste and used oil regulations resulting from printing omissions, typographical errors, misspellings, and citations to paragraphs. The department is incorporating by reference into the hazardous waste program rules the corrections as provided in 71 FR 40254 because these corrections will not be codified in the CFR until July 1, 2007. These final rules do not create any new regulatory requirements.

In a July 28, 2006, Federal Register notice (71 FR 42927), EPA amended its regulations to streamline management requirements for recycling of used cathode ray tubes (CRT) and glass removed from CRTs. The amendments conditionally exclude these materials from the RCRA definition of solid waste if certain conditions are met. This rule is intended to encourage recycling and reuse of used CRTs and CRT glass. The department is incorporating by reference into the hazardous waste program rules the final rules as provided in 71 FR 42927 because these regulations will not be codified in the CFR until July 1, 2007, and to ensure timely conformity with other states that have adopted similar regulations.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Robert A. Martin, Waste and Underground Tank Management Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; by fax (406) 444-1374; or by e-mail to rmartin@mt.gov, no later than November 15, 2006. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Keith Christie, attorney, has been designated to preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater

treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ David Rusoff
DAVID RUSOFF
Rule Reviewer

/s/ Richard H. Oppen
Richard H. Oppen, Director

Certified to the Secretary of State, September 25, 2006.